

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.936 of 2018
Date of Decision: 03.10.2018**

Bimla

.....Petitioner

Vs

Pooja and another

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Gulshan Nandwani, Advocate
for the petitioner.

Mr. H.N. Sahu, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J.

[1]. Petitioner is the grand mother of minor Vijeta, daughter of the deceased Kuldeep.

[2]. Petitioner has assailed the order dated 01.03.2016 passed by the Addl. Civil Judge (Sr. Divn.) Mohindergarh as well as order dated 28.10.2017 passed by the District Judge, Narnaul, whereby a petition under Section 8 of Hindu Guardianship and Wards Act, 1958 filed by the petitioner for custody of minor Vijeta was dismissed concurrently by both the Courts of original and appellate jurisdiction.

[3]. Petitioner filed a petition under Section 8 of the Hindu

Guardianship and Wards Act, 1958 with the averment that marriage of his son Kuldeep was solemnized with respondent No.1 Pooja according to Hindu rites and ceremonies on 22.02.2008. Out of this wedlock, a daughter took birth on 24.04.2009, who is now aged about 8½ years. After the death of Kuldeep, respondent No.1 left the matrimonial house along with minor daughter and solemnized second marriage with Dinesh son of Murlidhar, resident of Alwar (Rajasthan). Now she is residing in Alwar along with minor.

[4]. Petitioner claimed that she being natural grand mother of the minor was in a position to maintain her in terms of upbringing and providing quality education to her. Minor was the only surviving issue in the family from the lion of her son. It was further claimed that the life and future of minor was at stake in the company of respondent No.1, who has contracted the second marriage with Dinesh and the said Dinesh was stated to be a man of vices and he used to beat the minor.

[5]. Notice of motion was issued on 12.02.2018 and both the parties were directed to be present in this Court on the date fixed.

[6]. Today both the parties have come present in the Court. With the assistance of learned counsel for the parties, this Court also interacted with both the parties. The minor has also come

present with her mother. Minor is studying in the school. One son has also taken birth from the lion of Dinesh after second marriage of respondent No.1. Minor is pursuing her study in Arya Public School, Hasan Khan Mewati Nagar, Alwar (Rajasthan). As per report card of the minor for the session 2017-18, she being student of 3rd class has performed excellent and is performing exceptionally well in the school.

[7]. Both the Courts below with reference to the evidence, found that the welfare of the minor would be best served in the company of her mother. Step father of the minor is running a furniture shop. Respondent No.1 (mother) and step father of the minor have been providing basic needs to the minor for her upbringing.

[8]. I have considered the submissions made by learned counsel for the parties.

[9]. Welfare of the minor is of paramount consideration in custody issues. On being asked, the grand mother stated that they are having 1½ acres of landed property in the village. Her husband does not do any job or business. Since welfare of the minor has to be construed in the widest configuration, therefore, availability of land to the tune of 1½ acres with the petitioner/ grand mother would not suffice to serve the purpose of over all welfare of the minor, even if the said land is sold out. Welfare

cannot be measured by money or physical comforts.

[10]. The finding of fact recorded by the Courts below in my considered opinion are based on over all assessment of credentials of the parties as well as in best interest of the minor, who will bloom under the care and custody of her natural mother. Petitioner/grand mother has not met the minor so far since her birth. It would be highly improbable and risky to give custody of minor at this age of 8½ years to the grand mother, who is living in village and her promises to shift to the city for providing education to the minor would be contingent upon so many factors, which cannot be visualized on positive note at this stage.

[11]. In my considered opinion, the findings recorded by both the Courts below are legally tenable, hence no interference is called for in this revision petition. The same is accordingly dismissed.

October 03, 2018

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No